



## *Report to the Auburn City Council*

Action Item  
Agenda Item No. **3**

City Manager's Approval

**To:** Honorable Mayor and City Council Members  
**From:** Andy Heath, Administrative Services Director  
**Date:** April 9, 2012  
**Subject:** Assignment of Auburn Airport Land Lease from Leonard and Laurel Smith to Chuck Klunker

### *The Issue*

Shall the City Council consent to the assignment and assumption of a land lease from Leonard Arthur Smith, Jr. and Laurel Jean Smith, as trustees of the 2010 Smith Family Revocable Trust to Chuck Klunker, and authorize the execution of all related documents?

### *Conclusions and Recommendations*

By **RESOLUTION**, authorize the City Manager or his designee to approve the assignment and assumption of the land lease between the City of Auburn and Leonard Arthur Smith, Jr. and Laurel Jean Smith, as trustees of the 2010 Smith Family Revocable Trust to Chuck Klunker, and authorize the execution of all related documents.

### *Background*

On January 22, 2001, the City Council approved a 40-year land lease between the City of Auburn and Daniel and Alyce Larson. This lease was subsequently assigned on June 25, 2001 to Leonard and Laurel Smith (the Smith Family Revocable Trust effective March 14, 2011). The land lease comprises approximately 2,362 square feet of real property upon which a hangar is built at the Auburn Airport.

### *Analysis*

As a means to facilitate the assignment of the lease, the Smith Family Revocable Trust is selling the hangar and has requested the City's consent to assign the leasehold interest for the above referenced premises to Chuck Klunker. In addition to the City's approval of the lease assignment, staff recommends the City consent to the execution of any related documents including the recording, by the Placer County Recorder's Office, of a memoranda of lease for the affected parcel, if necessary.

**Alternatives Available to Council; Implications of Alternatives**

1. Adopt a resolution authorizing the City Manager or his designee to approve the assignment and assumption of the lease from the Smith Family Revocable Trust to Chuck Klunker.
2. Do not adopt a resolution and direct staff accordingly.

**Fiscal Impact**

None. The annual lease amount of \$1,068.04 currently paid by the Smith Family Revocable Trust will be assumed by the assignees to the lease.

Exhibit A – Assignment of Lease with Consent

ASSIGNMENT OF LEASE WITH CONSENT  
(AUBURN MUNICIPAL AIRPORT)

This Assignment of Lease with Consent ("**Assignment**") dated as of \_\_\_\_\_, 2012 (the "**Effective Date**") is made and entered into for good and valuable consideration by and between Leonard Arthur Smith, Jr. and Laurel Jean Smith, as Trustees of the 2010 Smith Family Revocable Trust ("**Assignor**") and Chuck Klunker ("**Assignee**"), with reference to the following facts:

RECITALS

A. City of Auburn, a Municipal Corporation, as Lessor, and Daniel S. and Alyce E. Larson as Lessee, executed an Auburn Municipal Airport Land Lease ("**Lease**") on February 1, 2001. By the terms of the Lease the Leased Premises were leased to Assignor as Lessee for a term of forty (40) years, commencing on February 1, 2001, and ending on January 31, 2041. The Leased Premises are described at Exhibit A and depicted on Exhibit B.

B. On or about June 19, 2001, Daniel S. Larson and Alyce E. Larson assigned all of their right, title and interest in the Lease to Leonard A. Smith, Jr. and Laurel J. Smith.

C. Pursuant to that certain Assignment of Lease with Consent dated as of March 14, 2011, Leonard A. Smith, Jr. and Laurel J. Smith assigned all of their right, title and interest in the Lease to Assignor.

D. Assignor now desires to assign the Lease to Assignee, and Assignee desire to accept the assignment thereof.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Assignor, Assignee and City agree as follows:

1. Effectiveness. This Assignment shall be effective as of the Effective Date.
2. Assignment, Assumption and Consent. Assignor hereby assigns and delegates to Assignee, and Assignee hereby accepts and assumes from Assignor, all of Assignor's rights and obligations as the "Lessee" under the Lease with respect to the Leased Premises and the improvements constructed thereon. Without limiting the foregoing, Assignee hereby agrees, for the benefit of Assignor and the City, to perform all of the obligations of the "Lessee" under Lease that relate to the Leased Premises and the improvements constructed thereon. The City hereby consents to the assignment and delegation by Assignor, and the acceptance and assumption by Assignee, of such rights and obligations.
3. Release of Assignor. The City hereby releases and discharges Assignor from any obligations of "Lessee" occurring on and after the Effective Date.
4. Entire Agreement. This Assignment, together with the Lease is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the parties with respect to the



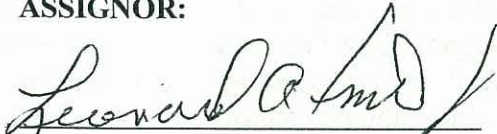
matters contained in this Assignment. Any waiver, modification, consent or acquiescence with respect to any provision of this Agreement shall be set forth in writing and duly executed by or in behalf of the party to be bound thereby. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

5. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of California without giving effect to its conflicts of law principles.

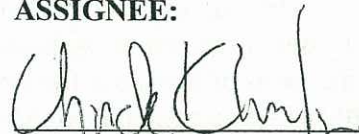
6. Third Party Beneficiaries. No third party shall have any rights under this Assignment.

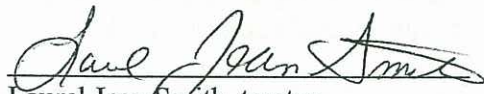
7. Subject to Lease. This Assignment is subject to all the terms, conditions and provisions of the Lease.

**ASSIGNOR:**

  
Leonard Arthur Smith, Jr., trustee

**ASSIGNEE:**

  
Chuck Klunker

  
Laurel Jean Smith, trustee

**CITY:**

THE CITY OF AUBURN,  
a municipal corporation

By: \_\_\_\_\_  
Robert Richardson  
City Manager

Attest:

\_\_\_\_\_  
Joseph J. R. LaBrie  
City Clerk

Approved as to form:

\_\_\_\_\_  
Michael G. Colantuono  
City Attorney

Exhibit A

Description of the Leased Premises

**ANDREGG, INC.**  
SURVEYING • MAPPING • GEOMATICS

November 30, 2000

**EXHIBIT "A"**  
**LEASE DESCRIPTION**  
**CITY OF AUBURN TO DANIEL S. or ALYCE E. LARSON**  
Resolution # 01-09

A portion of the tract of land described in the Grant Deed to the City of Auburn recorded in Volume 496 at Page 279, Official Records of Placer County and as shown on Record of Survey No. 1847 filed in Book 14 of Surveys at Page 66, Placer County Records, located in Section 28, Township 13 North, Range 8 East, M.D.M., City of Auburn, Placer County, California.

Beginning at the Southwest corner of the parcel to be described hereby, and from said point a three-quarter inch diameter iron pin stamped "L.S. 4751" marking the Southeast corner of the property shown and delineated as "T Hangars/Cole # 95-18" on the above described Record of Survey bears the following two (2) courses and distances: (1) South 83°54'23" West for a distance of 57.50 feet to a point on the Easterly line of above described "T Hangars/Cole" tract of land; and (2) South 06°54'04" East along said Easterly line for a distance of 91.20 feet; thence from said point of beginning North 83°54'23" East for a distance of 52.50 feet; thence North 06°05'37" West for a distance of 45.00 feet; thence South 83°54'23" West for a distance of 52.50 feet; thence South 06°05'37" East for a distance of 45.00 feet to the point of beginning.

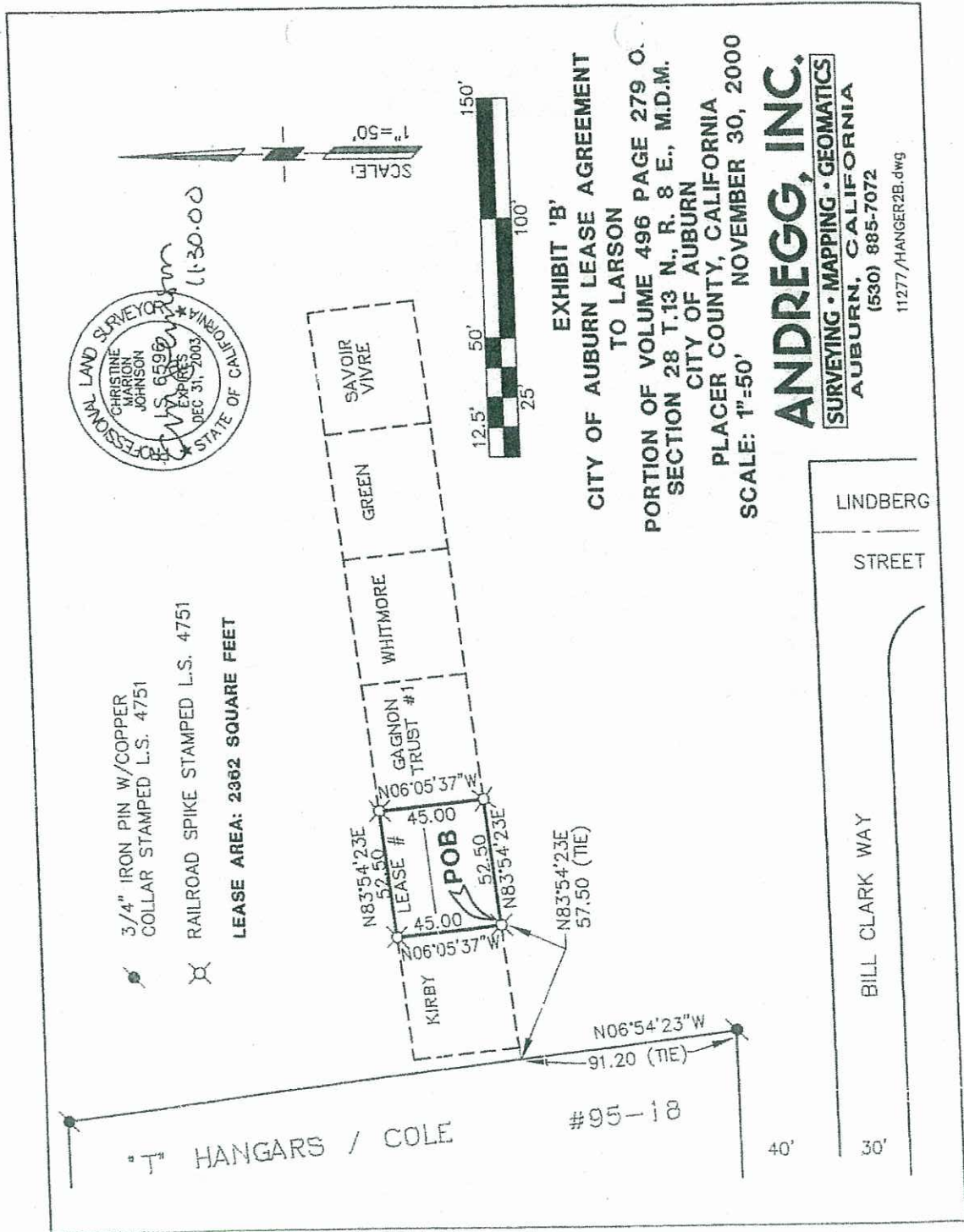
Containing 2362 square feet, more or less.



hangar2.doc

# Exhibit B

## Depiction of the Leased Premises





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RESOLUTION NO. 12-  
RESOLUTION APPROVING ASSIGNMENT OF AIRPORT LAND LEASE FROM THE  
SMITH FAMILY REVOCABLE TRUST TO CHUCK KLUENKER

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THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn does hereby authorize the  
City Manager or his designee to approve the assignment and assumption of the  
Land Lease between the City of Auburn and Leonard Arthur Smith, Jr. and  
Laurel Jean Smith, as trustees of the 2010 Smith Family Revocable Trust the  
Smith Family Revocable Trust to Chuck Klueker, and authorize the execution  
of all related documents.

DATED: April 9, 2012

\_\_\_\_\_  
Keith Nesbitt, Mayor

ATTEST:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby  
certify that the foregoing resolution was duly passed at a regular meeting of  
the City Council of the City of Auburn held on the 9<sup>th</sup> day of April 2012 by the  
following vote on roll call:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

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